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SANITARY LEGISLATION.

STATE LAWS AND REGULATIONS PERTAINING TO PUBLIC HEALTH.

SOUTH DAKOTA.

State Board of Health—Organization, Powers, and Duties—Registration of Physicians. (Chap. 109, Act Mar. 3, 1913.)

SECTION 1. There is hereby created a board of public health and medical examiners, the members of which are to be appointed by the governor, all of whom shall be resident physicians of the State, in good standing, and shall have resided and practiced within this State not less than five years preceding their appointment. The school known as the regular homeopathic shall at all times be represented upon such board.

SEC. 2. Immediately after the taking effect of this act the governor shall appoint five skilled and capable physicians who shall constitute said board, two of whom shall be appointed for the period ending July 1, 1914, and three for the period ending July 1, 1915, and thereafter in each year, on or about the first day of July, the governor shall appoint members of said board to succeed the members whose terms of office then expire, and such appointment shall in each instance be for a period of two years.

SEC. 3. The governor shall in his commission of appointment designate which member of said board shall be superintendent thereof. At the first meeting after their appointment the members thereof shall organize said board by electing a president and vice president. The superintendent of said board shall be ex officio secretary.

SEC. 4. The said board shall hold quarterly meetings in each year, two of which shall be at the State capital, and other meetings at such times and places as the superintendent of said board shall designate, and shall have power as follows:

(1) To exercise general supervision over all health officers and boards, take cognizance of the interest of health and life among the people, investigate sanitary conditions, learn the cause and source of disease and epidemics, observe the effect upon human health of localities and employments, and gather and diffuse proper information upon all subjects to which its duties relate; to gather, collate, and publish medical and vital statistics of general value, and advise all State officials and boards in hygiene and medical matters, especially those involved in the proper location, construction, sewerage, and administration of prisons, hospitals, asylums, and other public institutions.

(2) To adopt, alter, and enforce reasonable regulations of permanent application throughout the whole or any portion of the State, or for specified periods in parts thereof, for the preservation of the public health. Upon the approval of the attorney general, and the due publication thereof, such regulations shall have the force of law, except in so far as they may conflict with a statute or with the charter or ordinances of a city of the first class upon the same subject, and in and by the same the board may control, by requiring the taking out of licenses and permits, or by other appropriate means, any of the following matters:

(a) The manufacture into articles of commerce, other than food, of diseased, tainted, or decayed animal or vegetable matter.

- (b) The business of scavenging and the disposal of sewage.
- (c) The location of mortuaries and cemeteries and the removal and burial of the dead.
- (d) The management of lying-in houses and boarding places for infants and the treatment of infants therein.
- (e) The pollution of streams and other waters and the distribution of water by private persons for drinking or domestic use.
- (f) The construction and equipment, in respect to sanitary conditions, of schools, hospitals, almshouses, prisons, and other public institutions.
- (g) The treatment in hospitals and elsewhere of persons suffering from communicable diseases, the disinfection and quarantine of persons and places in case of such disease, and the reporting of sickness and deaths therefrom.
- (h) The accumulation of filthy and unwholesome matter to the injury of the public health, and the removal thereof.
- (i) To require the superintendent of vital statistics to furnish all information that he may have regarding vital statistics.
- (j) The supervision of slaughterhouses.
- (k) To license and regulate the practice of medicine and surgery within the State of South Dakota, and to make all rules and regulations which may be necessary or expedient to that end.

SEC. 5. *Publication—Penalties.*—Three weeks published notice of such regulations, if of general application throughout the State, shall be given at the seat of government; if of local application only, as near such locality as practicable; which publication shall be made in an official newspaper of the county where such publication is made. Special rules applicable to particular cases shall be sufficiently noticed when posted. or health Every person violating any such regulation, or any lawful direction of a board of health officer, shall be guilty of a misdemeanor. Fines collected shall be paid into the State treasury, and credited to the perpetual school fund.

SEC. 6. *Interstate carriers.*—Wherever necessary the board may establish and enforce a system of quarantine against the introduction into the State of any plague or other communicable disease by common carriers doing business across its borders. Its members, officers, and agents may board any conveyance used by such carriers, to inspect the same, and if it be found infected, may detain such conveyance and isolate and quarantine any or all persons found thereon, with their luggage, until all danger of communication of disease therefrom is removed.

SEC. 7. *Other remedies reserved.*—Nothing herein contained shall curtail the powers of the courts to administer the usual legal and equitable remedies in case of nuisances or of improper interference with private rights.

SEC. 8. The superintendent of said board shall devote his time and attention to the performance of his duties, and shall receive an annual salary of \$2,000, payable in monthly installments, and his actual and necessary expenses. The other members of said board shall receive as their compensation the sum of \$5 per day while actually engaged in the performance of their duties, and in addition thereto 5 cents per mile for each mile actually and necessarily traveled, and their actual and necessary expenses.

SEC. 9. The accounts of the members of said board for expenses and per diem shall be audited by the superintendent thereof and paid out of the State treasury on the warrant of the auditor upon properly certified vouchers.

SEC. 10. The said board shall keep a correct record of all its proceedings, and the same shall be open for public inspection. It shall also keep a register of all applicants for a license to practice as a physician and surgeon, or either, within this State, together with the age of such applicant, the time spent in preparation in the study of medicine, the location and name of all institutions in which said study has been pursued, the location and name of all institutions granting to applicant any degrees or certificates

of lectures in medicine or surgery, and such record shall show whether said applicant was rejected or licensed under this act, and said record or a certified copy of the entry thereof shall be prima facie evidence of all matters therein stated.

SEC. 11. Any person desiring to engage in the practice of medicine or surgery or obstetrics in any of their branches in this State shall make application to said board for a license to practice medicine, surgery, or obstetrics in the State of South Dakota. Such license shall be granted to such applicants who shall give satisfactory proof of being at least 21 years of age, of good moral character, on compliance with the following conditions: The applicants shall pass an examination upon the following subjects: Anatomy, physiology, chemistry, pathology, therapeutics, practice of medicine, surgery, obstetrics, gynecology, disease of the eye and ear, nose and throat, bacteriology, medical jurisprudence, and such other branches as the board may deem advisable; and in addition thereto shall present evidence of having attended four full courses of lectures of at least 26 weeks each in a legally organized and reputable medical college recognized by said board of public health and medical examiners, no two courses being in the same year, and of having received a diploma from a legally organized and reputable medical college which shall be in good standing, to be determined by the board, and said diploma must be submitted to the board for inspection and verification: *Provided*, That the four courses of lectures of six months each shall not apply to applicants graduating prior to 1898.

SEC. 12. The examination required by the preceding section shall be conducted as follows:

(1) The applicant before taking the examination shall pay to the superintendent of the board an examination fee of \$20.

(2) The examination shall be in writing, or oral, or both, as the board may determine.

(3) The questions on all subjects, except therapeutics and practice of medicine, shall be such as are answered alike by all schools of medicine. And no license shall be refused any applicant because of his adherence to any particular school of medicine. Each applicant shall be required to attain an average percentage of at least 75 per cent of correct answers. Any applicant failing on such examination shall be eligible to second examination at any regular meeting of the board or such times as the board may designate without the payment of an additional fee.

SEC. 13. To each applicant successfully passing said examination and fulfilling all other requirements of this act, the said board shall grant a license to practice medicine and surgery and obstetrics in all branches in the State of South Dakota. Such license shall be granted only by the consent of a majority of said board. All examination papers and questions submitted on examination shall be kept for reference and inspection for a period of not less than three years.

SEC. 14. The said board may, in its discretion, accept a license upon the payment of the license fee and without examination, any license which shall have been issued to the applicant by the examining board of the District of Columbia, or any State or Territory of the United States, if the legal requirements of such examining board at the time of issuing such license or certificate shall be in no degree or particular less than those of the State of South Dakota at the time when such license is presented for registration: *Provided*, That the provisions of this section shall apply to such certificates or licenses issued by examining boards as accept and register licenses or certificates issued by the board of public health and medical examiners of this State. Each applicant upon making application under the provisions of this act shall pay to the superintendent of said board a license fee of \$20.

SEC. 15. The board shall have the power and authority to refuse to grant a license under this act for unprofessional, immoral, or dishonorable conduct on the part of the applicant.

SEC. 16. The said board shall have the power and authority to revoke the license of any physician or surgeon heretofore or hereafter granted upon complaint made under

oath by a reputable person if it shall satisfactorily appear to the board that such physician or surgeon has been guilty of unprofessional, immoral, or dishonorable conduct or has been convicted of a felony, or if such physician or surgeon publicly professes or claims to cure or treat disease, injury, or deformity in such a manner as to deceive the public, or shall be grossly incompetent: *Provided, however*, That no license shall be revoked except after a hearing before the board upon notice of not less than 10 days, with a copy of the complaint having been duly served upon the adverse party, and then only upon due proof of the facts alleged in the complaint.

SEC. 17. The words, "unprofessional or dishonorable conduct," as used in this act, shall be construed to include—

First. Producing or aiding or abetting a criminal abortion.

Second. The employing of what is known as cappers or steerers.

Third. The obtaining of any fee on the assurance that a manifestly incurable disease can be permanently cured.

Fourth. Willfully betraying a professional secret.

Fifth. All advertising of medical business in which untruthful or improbable statements are made or which are calculated to mislead or deceive the public.

Sixth. All advertising of any medicine, or any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed.

Seventh. Conviction of any offense involving moral turpitude.

Eighth. Habitual intemperance.

SEC. 18. Any person receiving a license to practice as hereby provided shall record the same in the office of the register of deeds of the county where he resides and is engaged in practice, and the said register of deeds shall, on or before the 1st day of January and July in each year, furnish to the superintendent of said board a list of all licenses recorded. All moneys received by said board shall be paid into the State treasury and shall be credited to the general fund of the State, and a receipt in duplicate be filed with the superintendent of said board in the office of the State auditor.

SEC. 19. *Itinerant physicians must procure itinerant licenses.*—Any physician practicing medicine, surgery, or obstetrics or professing or attempting to treat, cure, or heal diseases, ailments, or injuries by any medicine, appliance, or method who goes from place to place, or from house to house, or by circulars, letters, or advertisements solicits persons to accept treatment from himself or others, at places other than his office at the place of his permanent residence, is hereby declared to be an itinerant physician, and shall, in addition to the ordinary physician's license as in this act provided, procure an itinerant's license from the State board of public health and medical examiners, for which he shall pay the superintendent of the board the sum of \$1,000 per annum; upon the payment of said sum of \$1,000 the board shall issue to the applicant therefor a license to practice within the State as an itinerant physician for one year from the date thereof.

SEC. 20. *Penalty for practicing without a license.*—Any person practicing medicine, surgery, or obstetrics in any of their branches as an itinerant physician as in section 19 hereof defined, without having procured such itinerant license, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$500 nor more than \$800 or imprisonment in the county jail not less than 30 nor more than 90 days, or by both such fine and imprisonment.

SEC. 21. *Unlawful to use title and prescribe, when.*—When a person shall append or prefix the letters "M. B." or "M. D.," or the title of "Dr." or "doctor," or "specialist," or any other sign or appellation in a medical sense, to his or her name, or shall profess publicly to be a physician or surgeon, or who shall recommend, prescribe, or direct for the use of any person any drug, medicine, apparatus, or other agency for the cure, relief, or palliation of any ailment or disease of the mind or body, or for the cure or relief of any wound, fracture, or bodily injury or deformity, after having received or with the intent of receiving therefor, either directly or indirectly, any

bonus, gift, or compensation, shall be regarded as practicing within the meaning of this act.

SEC. 22. The provisions of sections 11, 12, 13, 14, 15, 16, 17, 18, 21, and 25 of this act shall not apply to commissioned surgeons of United States Army, Navy, or Marine Hospital Service in the actual performance of their duties, nor to regularly licensed physicians or surgeons from outside this State in actual consultation with physicians of this State, nor to dentists or osteopaths in the legitimate practice of their profession, nor to Christian scientists as such, who do not practice medicine, surgery, or obstetrics by the use of any material remedies or agencies, nor to resident physicians and surgeons of this State regularly licensed and practicing in this State at the time of the taking effect of this act.

SEC. 23. Any person now practicing or who shall practice medicine, surgery, obstetrics, or any of the branches thereof, in the State of South Dakota, without having obtained a license as provided herein, and caused the same to be recorded as herein required, or any person who shall submit to the board of medical examiners any false, forged, or fraudulent diploma, or one of which he is not the lawful owner, or any false or forged affidavit of identification, for the purpose of obtaining from said board the license required by this act, or who shall file or attempt to file with the register of deeds of any county in this State any such license belonging to another, representing the same to be his own, or any such license issued to another having the names of the person to whom it was granted or issued erased therefrom and his own name, or the name of another, inserted in its place, or who shall falsely personate any one to whom such license has been granted, shall be deemed guilty of misdemeanor and upon conviction thereof shall be punished as follows: For the first offense, by a fine of not less than \$50 nor more than \$100, or by imprisonment in the county jail not to exceed 30 days, or both such fine and imprisonment. For the second offense, by a fine of \$300 and imprisonment in the county jail for 90 days. For the third and each subsequent offense, by a fine of \$500 and imprisonment in the county jail for 90 days: *Provided*, That the penalties set forth in this section shall not apply to the provisions nor modify the penalties set forth in sections 19 and 20 of this act.

SEC. 24. It shall be the duty of the state's attorney to prosecute any and all violations of this act committed in his county.

SEC. 25. Any person feeling aggrieved by any action of said board shall have the right to appeal to the circuit court of the county in which the person appealing resides. Said appeal shall be taken by serving upon the superintendent of said board a notice of appeal, stating the action of the board from which the appeal is taken, and, if an order, stating such order or so much and such part thereof from which the appeal is taken, and by filing with said superintendent a bond in the sum of \$500 conditioned for the payment of all costs of said appeal and all damages sustained by any person because of his failure to comply with the terms of said order if upon such appeal the same shall be held to be legal and valid. Upon the filing and approval of said bond the order appealed from shall be stayed pending the final determination of the controversy. Immediately upon the perfecting of said appeal it shall be the duty of the superintendent of said board to transmit to the clerk of the circuit court of said county the said notice of appeal and bond and a certified copy of all proceedings of said board in relation to the matter from which the appeal is taken, and said cause shall thereupon stand for trial at the first regular term of court in said county thereafter.

SEC. 26. The said board shall make to the governor a biennial report showing all of its proceedings and shall contain such recommendations as it shall deem expedient.

SEC. 27. Nothing in this act shall be so construed as to interfere with the powers and duties of the food and drug commissioner.

SEC. 28. Sections 238 and 245 [sic], both inclusive, of article 6 of chapter 4 of the Revised Political Code of 1903, and chapter 176 of the Session Laws of 1903, and chapter

136 of the Session Laws of 1905, and chapter 191 of the Session Laws of 1909, and all acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

County Boards of Health—Powers and Duties—Health Officers. (Chap. 110, Act Mar. 3, 1913.)

SECTION 1. That sections 250, 251, 252, and 253 of the Political Code is [sic] hereby amended to read as follows:

SEC. 250. The several county boards of health shall have power within their respective counties, subject to the supervisory control of the State board of health, and the superintendent of the State board of health to—

1. Enforce any and all needful rules and regulations made by the State board of health for the prevention and cure, and to prevent the spread of any contagious or infectious disease among persons or domestic animals.

2. Establish quarantine and isolate any person affected with contagious or infectious disease.

3. Isolate, kill, or remove any animal affected with contagious or infectious disease.

4. Remove or cause to be removed any dead, decaying, or putrid body, or any decayed, putrid, or other substance that may endanger the health of persons or domestic animals.

5. Condemn and cause to be destroyed any impure or diseased article of food that may be offered for sale.

All expenses actually and necessarily paid and incurred by the county board of health in carrying out the provisions of this article shall be audited by such board and certified to the county commissioners of the county where such expenses are incurred and shall be paid the same as other county expenses.

SEC. 251. The superintendent of the county board of health shall have charge of and superintend, subject to the approval of the board of which he is a member, and the supervisory control of the State board of health, all the matters and things in subdivisions 1, 2, 3, 4, and 5 of section 250 within his county, and in case of immediate danger to the health of persons he may act as in his judgment he may deem proper without consultation with the county board of health, for the prevention of such danger, and shall immediately report such action to the president of the county board of health, and to the superintendent of the State board of health.

SEC. 252. The president of the county board of health shall receive no other compensation than that which is provided for. He shall receive 5 cents for every mile actually and necessarily traveled in the performance of his duties as a member of said board. The superintendent of the county board of health shall receive 20 cents per mile for every mile actually and necessarily traveled by the nearest route in the performance of his duties, which mileage shall be in lieu of all compensation of traveling expenses that said superintendent shall receive, and the superintendent, or the vice president of the county board of health if he performs the duties of the superintendent, shall receive such other sums as the board of county commissioners may allow: *Provided*, That for each investigation, visit, or examination necessarily made where an infectious, contagious, or communicable disease may exist or be reasonably suspected of existing, the superintendent, or the vice president of the county board of health if he performs the duties of the superintendent, shall also receive the sum of \$5 for each investigation, visit, or examination actually and necessarily made where but one person is examined in one building and \$1 for each additional person examined. The superintendent shall also receive the sum of 50 cents for each monthly report to the superintendent of the State board of health of the health conditions of the county, and he, or the vice president if he performs the duties of the superintendent, shall further receive such other sum or sums as he may pay or become liable to pay for medicine, chemicals, drugs, or appliances in carrying out and performing the various